

Establishing a Tax Rate

**Library Special Purpose Governmental Entity
(SPGE) HB1 Compliance Training – Phase II**

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Disclaimer:

I am not an attorney. Nothing in this presentation is intended to be legal advice, and should not be taken as such.

If you feel you need legal advice, you should consult with a licensed attorney.

Tax Process in Kentucky

- The tax process in Kentucky, as it relates to libraries, had been largely unchanged since 1979 – the adoption of HB44
- With the introduction of HB1, several important changes have occurred

Tax Process in Kentucky

The initial part of the tax process is largely unchanged by HB1.

- The Revenue Cabinet may begin issuing “Certified Assessments” no earlier than July 1 of each year
- When completed, certifications are faxed to KDLA
- We received this information as soon – or sooner – than any other agency

Tax Process in Kentucky

- Two rates are computed by KDLA – the compensating and 4% rate (KRS 132.010) - additional rates may be computed upon written request of the library
- KDLA sends the library rates information - usually within 24 hours of receipt. This includes the rate information, the property valuation information, and the sheet for submitting the rates to the County Clerk

Tax Process in Kentucky

- After the library receives the rates, that's where the changes commence!
- The library board may request additional or alternative rates from KDLA.
- This request must be in writing (email).
- If the board decides to calculate their own rates, the formula found on the DLG website must be utilized (KRS 132.010).

Tax Process in Kentucky

- General requirements:
 - No Library SPGE may set a rate before the valuation is certified by Revenue (KRS 133.185)
 - If you are taking less than the 4% rate the library must establish the rate within 45 days of valuation certification (KRS 132.0225)
 - Rates should be turned in to the clerk by September 15th

Tax Process in Kentucky

- The library board may adopt any *legal* rate
- Depending upon the rate adopted, there are some new requirements this year

Tax Process in Kentucky - NEW

Regardless of the rate adopted, the library SPGE must provide for:

- (a) Submission of written notification of the ad valorem tax to the governing body – generally the fiscal court - at least thirty (30) days before the date the ad valorem tax or fee will be effective; and

Tax Process in Kentucky - NEW

- (b) Presentation of testimony relating to the ad valorem tax at an open, regularly scheduled meeting of the governing body – generally the fiscal court - at least ten (10) days prior to the date the ad valorem tax or fee will be effective (KRS 65A.100).
- The fiscal court has no power to alter or veto the collection of any rate the board chooses to adopt. This report is for informational purposes only.

Tax Process in Kentucky - NEW

Effective date of tax:

This is largely undefined and still unclear, we are seeking clarification from DLG.

Tax Process in Kentucky - NEW

The board may decide to exceed the Compensating rate, calculated as specified in statute.

If the rate from the prior year is readopted – and it is higher than the Compensating rate calculated this year – that is still considered a rate increase and will trigger the new requirements.

Tax Process – Exceeding the Compensating Rate

If adopting any rate which exceeds the
Compensating rate, the Library SPGE must
provide for:

- A public hearing to hear comments from the
public regarding the proposed tax rate.

Tax Process – Exceeding the Compensating Rate

- The hearing shall be held in the same location where the governing body of the city or county where the largest number of citizens served by the special purpose governmental entity reside meets, and shall be held immediately before a regularly scheduled meeting of that governing body.

Tax Process – Exceeding the Compensating Rate

- Notice of the hearing shall be advertised by publication at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:
 - The tax rate levied in the preceding year, and the revenue produced by that rate;
 - The tax rate proposed for the current year and the revenue expected to be produced by that rate;

Tax Process – Exceeding the Compensating Rate

- The compensating tax rate and the revenue expected from it;
- The revenue expected from new property and personal property;
- The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
- A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

Tax Process – Exceeding the Compensating Rate

- The purpose of the hearing; and
- A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein (KRS 132.023)

Tax Process – Exceeding the Compensating Rate

- The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony.
- The Library SPGE may set reasonable time limits for testimony (KRS 132.023).

Tax Process – Exceeding the Compensating Rate

You MAY NOT:

- Adopt a tax rate which exceeds the newly calculated compensating rate without advertising and holding a hearing.
- This includes adopting the prior year rate – if it exceeds the newly calculated compensating rate you MUST advertise and hold a hearing.

Tax Process – Exceeding the Compensating Rate

You MAY NOT:

- Hold the hearing in the library, unless the fiscal court meets in the library.
- Hold the meeting before a “special meeting” of the fiscal court – it must be immediately before the regularly scheduled meeting.
- Stop anyone from speaking who wishes to speak, stop anyone from attending, or stop anyone from recording the hearing.

Tax Process

- If you are taking a rate which will produce in excess of 4%, you must follow KRS 132.017 – Recall Petition.
- Your tax rate will not become effective until 45 days after the date it was adopted – if not challenged.
- Your tax is subject to recall if 5 qualified voters wish to pursue that option.

Tax Process

- The rates selected by the Library SPGE must be submitted to the fiscal court, the court clerk, and KDLA.
- A form for making this submission is included in your yearly tax information sent from KDLA.

FEES

Can this get any more confusing?

KRS 65A.100 Fees

Beginning January 1, 2014, the provisions of this section shall apply to any fee or ad valorem tax levied by a special purpose governmental entity that is not otherwise required by statute or ordinance to be adopted or approved through an official act of an establishing entity.

KRS 65A.100 Fees

Any Library which:

1. Adopts a new fee
2. Increases the rate at which any existing fee is imposed

Shall report the fee to the fiscal court of the county where the library is located (unless the library was created by the city)

KRS 65A.100 Fees

The required report shall be for informational purposes only, and the governing body shall not have the authority to adjust, amend, or veto the fee or tax, provided that any other provision of the Kentucky Revised Statutes that provides greater authority for the governing body of a city or county over taxes, fees, or rates imposed by a library shall continue to apply to those taxes, fees, or rates.

KRS 65A.100 Fees

The report of a new fee or fee change shall be made by:

1. Submission of written notification of the fee to the fiscal court at least thirty (30) days before the date the fee will be effective; and
2. Presentation of testimony relating to the fee at an open, regularly scheduled meeting of the fiscal court at least ten (10) days prior to the date the fee will be effective.

KRS 65A.100 Fees

You are not required to report:

- If a fee remains unchanged
- If a fee is lowered
- If a fee is eliminated

KRS 65A.100 Fees

You are not required to report:

- (a) Rental fees;
- (b) Fees established by contractual arrangement;
- (c) Admission fees;
- (e) Any penalty, interest, sanction, or other charge imposed by a library for a failure to pay a charge or fee, or for the violation, breach, or failure to pay or perform as agreed pursuant to a contractual agreement;

KRS 65A.100 Fees

(f) Amounts charged to customers or contractual partners for nonessential services provided on a voluntary basis;

(j) Other charges or fees imposed by a special purpose governmental entity for the provision of any service that is also available on the open market.

- This covers most of the fees charged by a library

The changes:

- The changes are significant, and failure to follow the changes outlined could result in the district failing to establish a legitimate tax rate.
- You should work with the fiscal court to meet these changes. Cooperation will be required to meet the need for reporting and for a hearing, if you decide to exceed the compensating rate.

Please feel free to contact me:

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